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| APPLICATION NO.        | F      | ILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|------------------------|--------|------------|----------------------|-------------------------|------------------|
| 09/473,619             |        | 12/29/1999 | ROBERT SIMAN         | 02655/062002            | 1229             |
| 46347                  | 7590   | 07/14/2006 |                      | EXAMINER                |                  |
| WOODCO                 | CK WAS | SHBURN LLP | YAEN, CHRISTOPHER H  |                         |                  |
| 1 LIBERTY<br>46TH FLOC |        |            | ART UNIT             | PAPER NUMBER            |                  |
| PHILADELPHIA, PA 19103 |        |            |                      | 1643                    |                  |
|                        |        |            |                      | DATE MAILED: 07/14/2006 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|   |   | Application No.  | Applicant(s)  |  |  |  |  |
|---|---|--|---|--|--|--|--|
|   |   | 09/473,619   | SIMAN ET AL.  |  |  |  |  |
|   | Office Action Summary   | Examiner   | Art Unit  |  |  |  |  |
|   |   | Christopher H. Yaen  | 1643  |  |  |  |  |
|   | The MAILING DATE of this communication appears on the cover sheet with the correspondence address<br>Period for Reply   |  |   |  |  |  |  |
| A SHOWHIC<br>- Exter<br>after<br>- If NO<br>- Failu<br>Any r  | ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DATES as ions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. In period for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b). | ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONED | l. ely filed the mailing date of this communication. 0 (35 U.S.C. § 133). |  |  |  |  |
| Status  |   |  |   |  |  |  |  |
| 2a)⊠  | Responsive to communication(s) filed on <u>25 Ap</u> This action is <b>FINAL</b> . 2b) This Since this application is in condition for allowan closed in accordance with the practice under <i>E</i>  | action is non-final.  nce except for formal matters, pro   |   |  |  |  |  |
| Dispositi   | on of Claims  |  |   |  |  |  |  |
| 5)⊠<br>6)⊠<br>7)□<br>8)□  | Claim(s) 1-7,9-11 and 13-47 is/are pending in to 4a) Of the above claim(s) 2-7,9-11 and 13-46 is Claim(s) 1 is/are allowed.  Claim(s) 47 is/are rejected.  Claim(s) is/are objected to.  Claim(s) are subject to restriction and/or on Papers   | /are withdrawn from consideratio   | n.  |  |  |  |  |
| 10)⊠ ·  | The specification is objected to by the Examiner<br>The drawing(s) filed on <u>27 December 1999</u> is/ar<br>Applicant may not request that any objection to the or<br>Replacement drawing sheet(s) including the correction<br>The oath or declaration is objected to by the Example 1   | re: a)⊠ accepted or b)⊡ objected or b)⊡ objected drawing(s) be held in abeyance. See on is required if the drawing(s) is object.                                       | 37 CFR 1.85(a).<br>ected to. See 37 CFR 1.121(d).                         |  |  |  |  |
| Priority u  | nder 35 U.S.C. § 119  |  |   |  |  |  |  |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received. |   |  |   |  |  |  |  |
| 2) D Notice<br>3) D Inform  | (s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) No(s)/Mail Date  | 4) Interview Summary ( Paper No(s)/Mail Dat 5) Notice of Informal Pa 6) Other:   | e   |  |  |  |  |

Art Unit: 1643

#### **DETAILED ACTION**

Re: SIMAN ET AL

1. The amendment filed 4/25/2006 is acknowledged and entered into the record.

Accordingly, claims 8 and 12 are canceled without prejudice or disclaimer, and claim 47

is newly added.

2. Claims 1-7,9-11, and 13-47 are pending, claims 2-7,9-11,13-46 are withdrawn as

being drawn to a non-elected invention.

3. Claims 1 and 47 are examined on the merits.

4. The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

## Claim Rejections Maintained - 35 USC § 102

5. The rejection of claim 47 as newly presented under 35 USC § 102(b) as being

anticipated by Anderson DH et al (J. Bacteriol 1989; 171(12):6468-6472, previously

cited) is maintained for the reasons of record. Applicant has amended original claim 1

to remove recitation of SEQ ID No: 1, however new claim 47 still reads on the sequence

of SEQ ID No: 1. Applicant has not provided any arguments to overcome the rejection

of record, therefore, the amendments to the claims are not deemed persuasive to

overcome the rejection of record.

Therefore, the rejection of the claim under 35 USC 102(b) is maintained for the

reasons of record.

Art Unit: 1643

## Claim Rejections Maintained - 35 USC § 102

6. The rejection of claim 47 under 35 USC § 102(b) as being anticipated by Dechert et al. (J. Neurochem 198953(4):1268-1275 is maintained for the reasons of record.

Applicant has amended original claim 1 to remove recitation of SEQ ID No: 1, however new claim 47 still reads on the sequence of SEQ ID No: 1. Applicant has not provided any arguments to overcome the rejection of record, therefore, the amendments to the claims are not deemed persuasive to overcome the rejection of record.

Therefore, the rejection of the claim under 35 USC 102(b) is maintained for the reasons of record.

### Claim Rejections Maintained - 35 USC § 102

7. The rejection of claim 47 under 35 USC § 102(e) as being anticipated by Talanian *et al.* (US Patent 6,288,037) is maintained for the reasons of record. Applicant has amended original claim 1 to remove recitation of SEQ ID No: 1, however new claim 47 still reads on the sequence of SEQ ID No: 1. Applicant has not provided any arguments to overcome the rejection of record, therefore, the amendments to the claims are not deemed persuasive to overcome the rejection of record.

Therefore, the rejection of the claim under 35 USC 102(e) is maintained for the reasons of record.

#### Conclusion

Claim 1 appears to be free of the prior art. Claim 47 is not allowed.

Art Unit: 1643

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Yaen whose telephone number is 571-272-0838. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Yaen Art Unit 1643 June 27, 2006

CHRISTOPHER H. YAEN PRIMARY EXAMINER

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